

6.21) However, the remaining videos may have been more lucrative if each release were well received in the market, thus tending to a "snowballing" of consumer interest. Alternatively, the combined set of five DVDs could have had some value as a collector's item.

6.22) If a revenue level of \$864,396 is assumed the same throughout, Mr. Cooper would have lost a sum of \$4,321,980 over five potential releases.

6.22) On the other hand, lost earnings could have been as low as \$864,396 if sales of later releases were not profitable, or if later DVDs were not released at all.

6.23) If we assume earnings are straight line depreciated,¹ lost earnings would be \$2,593,188, broken down as follows:

Disk 1	\$864,396
Disk 2	\$691,517
Disk 3	\$518,638
Disk 4	\$345,758
Disk 5	\$172,879
Total	\$2,593,188

6.24) To avoid speculation on any one amount, I then estimate the range of earnings on the five releases to be between \$864,396 and \$4,321,980.

7. ADDITIONAL CONSIDERATIONS

7.1) In applying sales numbers from 2008 to the purported year of the Defendant's interference, (2014), I came across considerable changes in Mr. Harvey's popularity since the

¹ Straight line depreciation is a tax procedure used in the accounting profession to proportionally reduce the value of an asset by the same fraction each time period, as determined by the reciprocal of the lifetime. I have determined the straight line depreciation rate to be 1/(number of releases), thus depleting the same dollar worth of the asset each time the next release is made.

first release of *Still Trippin'*. These events would tend to increase consumer interest in any product bearing his name or likeness.

7.2) Relying on the information provided in the Wikipedia.org article, Mr. Harvey since 2008 has become the host of *Family Feud*, the *Celebrity Family Feud*, the *Steve Harvey Television Show*, as well as a popular radio show. Since 2008, Mr. Harvey has also hosted a number of prominent award ceremonies.

7.3) I have not been able to quantify the value of this considerable expansion in Mr. Harvey's national popularity.

7.4) Since 2008, Mr. Harvey has won the following awards and honors:

- 2011: BET Humanitarian Award - 2011 BET Awards
- 2013: Favorite New Talk Show Host - 39th People's Choice Awards
- 2013: Star on the Hollywood Walk of Fame
- Two-time winner: NAACP Image Awards Outstanding News/Talk/Info Series (as host of Steve Harvey - 2014, 2015)
- 2014: Daytime Emmy Award for Outstanding Game Show Host
- 2014: Daytime Emmy Award for Outstanding Talk Show Informative (as host of Steve Harvey)
- 2015: East 112th Street in Cleveland renamed Steve Harvey Way
- 2015: NAACP Image Awards Outstanding Host - Talk/Reality/Variety/News/Information
- 2015: Daytime Emmy Award for Outstanding Talk Show Informative (as host of Steve Harvey)

7.5) Since 2008, Mr. Harvey also wrote a New York Times bestseller, *Act Like a Lady, Think Like a Man*, which has been made into two successful movies, *Think Like a Man* and *Think Like a Man Too*.

7.6) I believe that these factors establish a growing popularity of Steve Harvey in the national consciousness, and a reason for people to become more interested in buying his material.

7.7) Harvey's growing popularity then presents additional reasons to expect that projections in Section 6, which are established through techniques and data confined to my expertise as an economist, may be deemed somewhat low.

7.8) I am also advised that the Court may consider these additional factors when entering its final judgment. I will advise of additional personal documents of Mr. Harvey's that should be disclosed prior to this moment.

8. CONCLUSION

The above report represents my expert opinion and the conclusions to which I am prepared to testify in court. I am advised that prejudgment interest and discount adjustments may be fixed by the Court. I am advised that, per the Court's order, I will have an opportunity to supplement this report to update financial information related to Plaintiffs' damages not previously included in my reports. I reserve the right to modify my results as full information becomes available for this and other data updates prior to trial.

Michael A. Einhorn /s/

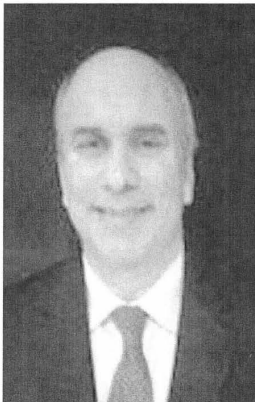
Michael A. Einhorn, Ph.D.

January 25, 2016

Professional Resume

Michael A. Einhorn, Ph.D.

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**MICHAEL A. EINHORN**mae@mediatechcopy.com<http://www.mediatechcopy.com>

Michael A. Einhorn (mae@mediatechcopy.com, <http://www.mediatechcopy.com>) is an economic consultant and expert witness active in the areas of intellectual property, media, entertainment, damage valuation, licensing, antitrust, personal injury, and commercial losses. He received a Ph. D. in economics from Yale University. He is the author of the book *Media, Technology, and Copyright: Integrating Law and Economics* (Edward Elgar Publishers), a Senior Research Fellow at the Columbia Institute for Tele-Information, and a former professor of economics and law at Rutgers University. He has published over seventy professional and academic articles and lectured in Great Britain, France, Holland, Germany, Italy, Sri Lanka, China, and Japan.

In the technology sector, Dr. Einhorn worked at Bell Laboratories and the U.S. Department of Justice (Antitrust Division) and consulted to General Electric, AT&T, Argonne Labs, Telcordia, Pacific Gas and Electric, and the Federal Energy Regulatory Commission. He has advised parties and supported litigation in matters involving patent damages and related valuations in semiconductors, medical technologies, search engines, e-commerce, wireless systems, and proprietary and open source software.

Litigation support involving media economics and copyright damages has involved music, movies, television, advertising, branding, apparel, architecture, fine arts, video games, and photography. Matters have involved Universal Music, BMG, Sony Music Holdings, Disney Music, NBCUniversal, Paramount Pictures, DreamWorks, Burnett Productions, Rascal Flatts, P. Diddy, Nelly Furtado, Usher, 50 Cent, Madonna, and U2.

Matters involving trademark damages have included the Kardashians/BOLDFACE Licensing, Oprah Winfrey/Harpo Productions, Madonna/Material Girl, CompUSA, Steve Madden Shoes, Kohl's Department Stores, *The New York Observer*, and Avon Cosmetics. Matters in publicity right damages have involved Zooey Deschanel, Arnold Schwarzenegger, Rosa Parks, Diane Keaton, Michelle Pfeiffer, Yogi Berra, Melina Kanakaredes, Woody Allen, and Sandra Bullock.

Dr. Einhorn can be reached at 973-618-1212.

REPRESENTATIVE CLIENTS

New York State Attorney General; New York

Arnold & Porter; Washington

Baker & Hostetler; Cleveland

Palmer & Dodge; Boston

Hunton & Williams; Washington

Blecher & Collins; Los Angeles

Stokes Bartholomew Evans & Petree; Nashville

King & Ballow; Nashville

Frankfurt Kurnit Klein & Selz; New York

Lavelly & Singer; Los Angeles

Davis and Gilbert; New York

Cowan DeBaets Abrahams & Sheppard; New York

Taft Stettinius & Hollister; Indianapolis

Sheppard Mullin Hampton & Richter; Los Angeles

Seyfarth Shaw; Los Angeles

Connolly Bove Lodge & Hutz; Wilmington

Blackwell Sanders Peper Martin; St. Louis

Lipsitz Green Fahringer Roll Salisbury & Cambria; Buffalo

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EXPERT EXPERIENCE

Trademarks and Advertising: *Trademark* (Dish Network, The Weather Channel, Madonna/Material Girl, Oprah Winfrey/Harpo Productions, PML Clubs, Avon Cosmetics, Miller International, *The New York Observer*, the Kardashians/BOLDFACE Licensing + Branding), and *advertisers* (J. Walter Thompson, Kia Motors, Coca Cola)

Music: *Recording artists* (U2, Madonna, 50 Cent, Usher, Rascal Flatts, LMFAO, Aimee Mann, Nappy Roots, Justin Moore, Xzibit, Nelly Furtado, George Clinton, Notorious B.I.G., D.L. Byron), *record labels* (Sony Music Holdings, Universal Music Group, Disney Music, Atlantic Records), *producers* (P. Diddy, Timbaland), *publishers* (Major Bob Publishing, Universal Music Publishing, Bridgeport Music, Hamstein Music, Chrysalis Music, Kobalt Music), *performing rights organizations* (SESAC), *radio stations* (WPNT in Pittsburgh), and *live venues* (World Wrestling Entertainment, Usher, LMFAO).

Video: *Movies* (Paramount/Dreamworks), *cable programs* (NBCUniversal), *product placement* (Paxson Productions), *treatments* (Burnett Productions), *soundtrack* (Warner Bros. Entertainment), *TV programs* (Televiscentro of Puerto Rico), *satellite programming* (Golden Channels Company of Israel), and *cable operations* (AT&T).

Apparel and Design: *Apparel* (Target Stores, Carol Anderson,, Forever 21, Crew Knitwear, Joyce Leslie, Anthropologie), *architecture* (Sprint PCS, Home Design LLC, Murray Engineering, Turnkey Associates), *medical illustrations* (Pearson Education Services), *photography* (Harris Publications), *sculpture* (Marco Domo), *cartoons* (A.V. Phibes, Melissa Flock), and *commercial marketing* (Kaufman Global).

Publicity Rights and Estate Valuations: *Names and likenesses* (Woody Allen, Rosa Parks, Arnold Schwarzenegger, Sandra Bullock, Cameron Diaz, Diane Keaton, Zooey Deschanel, Yogi Berra), *estate valuations* (Tasha Tudor, Marlon Brando, Bernard Lewis).

Cyberspace: *Music services* (Apple iTunes, Napster, MP3.com), *proprietary software* (Centrifugal Force, Frogware), *open source software* (Jacobsen v. Katzer), *electronic publishing* (Pearson), *video games* (Activision), *search engines* (eUniverse), and *domain names* (eCommerce).

Patents and Technology: *Semiconductors* (General Electric v. Kodak, Great Lakes v. Sakar, *cellular* (Cellebrite v. Micro Systemation), *software* (Jacobsen v. Katzer, Centrifugal Force v. Softnet), *medical technology* (Lemper v. Legacy, Graston v. Graham), and *general patents* (DeCordova v. MCG)

Antitrust and Commercial Losses: *Antitrust*, *breach of contract*, and *commercial injury* in actions involving AT&T, California Scents, Safmor, Inc., Golden Channels Company of Israel, and St. Joseph's Regional Hospital (College Station, Texas).

Personal Injury: Detailed and innovative projection of real earnings growth, replacement medical insurance, proper discount rates, worklife expectancy, and lost Social Security benefits.

LITIGATION ENGAGEMENTS

Media and Copyright

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Klauber Brothers, Inc. v. Forever 21 Retail, Inc., et al., Central District of California, report, valuation of damages resulting from infringement of **copyrighted apparel design by a major apparel chain.**

Cartagena Enterprises, Inc. v. J. Walter Thompson Co., et al., American Arbitration Association, report, valuation of damages resulting from infringement of prominent Salsa composition in an advertising message **by the leading advertising agency and the largest bank in Puerto Rico.**

Radix Textile, Inc. v. Anthropologie, Inc. et al., Central District of California, report, valuation of damages resulting from copyright **_infringement of apparel design by major clothing chain.**

Digital Satellite Connection v. Dish Network Corporation, et al., District of Colorado, report and deposition, valuation of damages resulting from **trademark infringement by national satellite provider.**

Events Media, Inc. v. The Weather Channel, Inc., District Court of New Jersey, report and deposition, valuation of damages resulting from infringement of **trade secret information by major cable network.**

Munhwa Broadcasting Corporation v. Media Journal Inc., et al., Central District of California, declaration in support of **plaintiff in anti-circumvention liability (DMCA) .**

Star Fabrics, Inc. v. Joyce Leslie, Inc., Central District of California, report, valuation of damages resulting from infringement of **copyrighted apparel design by major retail c**

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Scott E. D. Skyrn v. Newedge USA, LLC, FINRA Dispute Resolution #12-02346, 2014, testimony, valuation of damages resulting from infringement of **copyrighted data form in financial newsletter**.

Ron Satija and Heather Lynette Mowder v. General Automobile Insurance Company, District Court of Northern Ohio, 2014, report, valuation of damages resulting from infringement of **cartoon character The General in national advertising campaign**.

Daniel Moser v. Raymond Ayala (p/k/a Daddy Yankee), et al., District Court of Puerto Rico, 2014 report, valuation of damages resulting from infringing reproduction and performance rights in **Daddy Yankee's multi-platinum song Rompe**.

Dan Marino v. Usher Raymond, et al., Eastern District of Pennsylvania, 2013, report, valuation of damages resulting from infringing reproduction and performance rights in **Usher's song Bad Girl**.

Preston Asevedo v. NBCUniversal Media, et al., Eastern District of Louisiana, 2013, report, estimated damages for commercial artwork used on a **Syfy cable television program Dream Machines**.

Ryan Lessem and Douglas Johnson v. Universal Music Group, Southern District of New York, 2013, report and deposition, valuation of damages involving copyright infringement in **50 Cent's song How We Do**, recorded by The Game.

NTD Architects v. Baker Nowicki Design Studio, Southern District of California, 2013, report and deposition, estimated damages resulting from copyright infringement involving **architectural plans**.

Sheila Lyons, DVM v. Robert Gillette, et al., District of Massachusetts, 2013, report, valuation of damages resulting from copyright infringement of **professional training materials**.

Montana Connection, et al. v. Justin Moore, Middle District of Tennessee, 2013, report, estimated damages for infringement in **country hit song Backwoods** on Justin Moore's record album and concert performances.

Turnkey Associates v. Steph Weiland, et al., District of Iowa, 2012, report, estimated damages resulting from copyright infringement of **architectural plans** by severed employee in new professional concern.

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VMG Salsoul v. Madonna Louise Ciccone, et al., Central District of California, 2013, report, valuation of damages resulting from copyright infringement in **Madonna's song Vogue**.

Murray Engineering v. Windermere Properties, et al., Southern District of New York, 2012, report, estimated damages resulting from copyright infringement of **architectural plans** in New York residential building.

BanxCorp. v. Costco Wholesale Corporation, Inc. et al., Southern District of New York, 2012, report, valuation of damages resulting from infringing use of **compilation data by Costco and Capital One**.

Home Design, LLC v. Collard Properties, District of Colorado, 2012, report, valuation of damages and defendant profits in connection with copyright infringement of **architectural plans** in new residential development.

Interstar Holdings v. Truman Press, Superior Court of California, 2011, report, matter involving valuation of commercial losses resulting from breach of contract involving DVD **movie Dawn of the Living Dead**.

U.S. Textile Printing v. Crew Knitwear, et al., Central District of California, 2010, report and deposition, estimated damages resulting from copyright infringement of **textile design**.

Lutfu Murat Uckardesler, et al. v. Azteca International Corporation, et al., Central District of California, 2010, consultant, estimated damages resulting from infringement of treatment on internationally popular **reality television show**.

Kernel Records Oy v. Timbaland, et al., Southern District of Florida, 2010, report, estimated damages resulting from copyright infringement of sound recording on multi-platinum album recorded in **Nelly Furtado's song "Do It."**

Melk Communications v. Pennsylvania Medical Society, et al., Eastern District of Pennsylvania, 2010, report, estimated damages resulting from fraud, misappropriation, and copyright infringement of **commercial marketing materials**.

Anthony Lawrence Dash v. World Wrestling Entertainment, Inc., District of South Carolina, 2011, report, valuation of damages involving use of a **copyrighted song** in a **highly promoted Wrestlemania event**.

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Timpco v. Implementation Services, Southern District of Indiana, 2009, report, valuation of damages resulting from copyright infringement of **commercial marketing materials**.

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Bridgeport Music Inc. v. Smelzgood Entertainment, et al., Middle District of Tennessee, 2007, report and trial testimony, estimated damages for unauthorized use of **George Clinton's classic composition Atomic Dog** on later infringing record album.

Melissa Flock v. State of Florida, Division of Emergency Management, Northern District of Florida, 2007, report, estimated damages for copyright infringement of **cartoon characters** by the State of Florida.

Neil Zlozower v. Harris Publications, Inc., Southern District of New York, 2006, report and deposition, valuation of lost photographic slides owned by **famous photographer of rock group Metallica**.

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TMTV Corp. v. Mass Productions, Inc., District of Puerto Rico, 2006, report and trial testimony, estimated damages resulting from copyright infringement of **television program** by producer and comedian Sunshine Logrono.

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Bridgeport Music et al. v. Crited Music., Middle District of Tennessee, 2006, report, estimated damages for copyright infringement of **musical composition You'll Like it Too**.

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